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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/380,784	09/09/1999	YOSHITO NEJIME	501.37519X00	3064
24956	7590	11/28/2005	EXAMINER	
MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C. 1800 DIAGONAL ROAD SUITE 370 ALEXANDRIA, VA 22314			KOENIG, ANDREW Y	
			ART UNIT	PAPER NUMBER
			2611	

DATE MAILED: 11/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/380,784	NEJIME ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Andrew Y. Koenig	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 12 September 2005.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 7,9,11 and 22-26 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 7,9,11 and 22-26 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date: _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Response to Arguments***

1. Applicant's arguments filed 12 September 2005 have been fully considered but they are not persuasive.

The applicant has introduced a new limitation of "wherein if said program or script is not executed within a predetermined period of time as measured from a time when execution of the program or script is started..."

The applicant argues that the time information of Shimoji teaches then "end-time" is entirely different from the present invention in that it merely indicates the time during which the navigation information is value, not a time as measured from the start of execution of the program or script as in the present invention (see pg. 10, para. 2).

Whereas this may be true, in that present invention incorporates processing time (see fig. 4, label 1003), the claims are broader than present invention, and thereby subject to alternative interpretations. The applicant argues that the end time is merely an indication as to when the bit map data is valid rather than a time measured from the start of the execution of the program or script as in the present invention. The examiner agrees with the applicant in the end time is merely when the bit map is valid. However, the bitmap is necessary for the selection/ execution of the script (see pg. 24, para. 0434-0436). Accordingly, when the bitmap disappears, the script can no longer be executed, which reads on the claimed "if said program or said script is not executed within a predetermined period of time as measured from a time when execution of said program or script is started (as accessed through the bitmap), then the execution of said

program or said script is canceled, thereby not playing back data generated by executing said program or said script and resuming playing back said video and audio data.

***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 26 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Specifically, claim 26 is merely a recording medium storing a program or script, and thus is a program per se.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9, 11, and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,172,111 to Olivo, Jr. (hereafter Olivo) in view of U.S. Patent Application Publication 2004/0088739 to Shimoji et al. (hereafter Shimoji).

Regarding claim 9, Olivo teaches receiving a broadcast signal (program material signal) interlocked with auxiliary information (material content signal) (col. 5-6, ll. 63-4).

Olivo is silent on the material content signal being either an executable program or script. Shimoji teaches handlers as scripts, which are programs or instruction words that are executed by the receiving apparatus (pg. 10, para. 0228). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Olivo by implementing an executable program or script as taught by Shimoji in order to display the embedded information thereby enabling the user to gather access to education and entertainment options and providing interactive information to the user. Olivo teaches that the broadcast information includes audio and video data (col. 6, II. 59-65) and the auxiliary information indicates the material content and the alternate sources being a secondary source. Olivo teaches storing the broadcast information in a storage unit (col. 5, II. 26-35). Olivo teaches playing back the broadcast information (col. 5, II. 36-41). Further, Olivo teaches stopping the visual presentation of the stored broadcast signal and playing an alternate video triggered by the auxiliary information (col. 7, II. 48-54), wherein the trigger reads on according to a predetermined start timing of said auxiliary information. Olivo teaches substituting scenes in a video sequence with more acceptable content (col. 7, II. 48-54), one would readily recognize that the system of Olivo switching back to the broadcast information signal at the completion of the substituted signal (col. 14, II. 30-53). Olivo teaches selective selection of the script, depending on the MCS evaluation switch (col. 14, II. 30-53, col. 16, II. 1-27). Olivo is silent on determining if the script is executed with a predetermined period of time. Shimoji teaches a scripts time information table for a time period of script execution (pg. 11, para. 0234, 0240) and in addition teaches that if the no user input I received then

terminating the user input section (pg. 24, para. 0436), which cancels the script (when data is not entered within a predetermined period of time as measured from a time when execution of said program or said script is started) and continuing playback of the broadcast material (pg. 24, para. 0436). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Olivo by displaying the script for a predetermined period of time as measured from a time when execution of said program or said script is started as taught by Shimoji in order to provide the user with the option to select a prompt to acquire more information.

Regarding claim 11, Olivo teaches receiving a broadcast signal (program material signal) interlocked with auxiliary information (material content signal) (col. 5-6, II. 63-4). Olivo is silent on the material content signal being either an executable program or script. Shimoji teaches handlers as scripts, which are programs or instruction words that are executed by the receiving apparatus (pg. 10, para. 0228). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Olivo by implementing an executable program or script as taught by Shimoji in order to display the embedded information thereby enabling the user to gather access to education and entertainment options and providing interactive information to the user. Olivo teaches that the broadcast information includes audio and video data (col. 6, II. 59-65) and the auxiliary information indicates the material content and the alternate sources being a secondary source. Olivo teaches storing the broadcast information in a storage unit (col. 5, II. 26-35). Olivo is silent on storing during a predetermined time period. Shimoji teaches a data storage unit (5125) for storing the

navigation information table and system information table storage unit, for storing information as shown in figure 17-27 (pg. 21, para. 0390-0391). Consequently, Shimoji teaches storing during a predetermined period of time, based upon the data, further Shimoji teaches storing the information locally in RAM for local execution of the scripts (auxiliary content). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Olivo by storing during a predetermined time period as measured from a time when execution of said program or said script is started as taught by Shimoji in order to permit the user to return to the programming without missing any of it. Olivo teaches playing back the broadcast information with auxiliary information by controlling read operations carried out by said read unit with predetermined timing (col. 5, ll. 36-41), but is silent on a processor. Shimoji teaches the use of a CPU (processor) in that reception control unit (5126) (pg. 21, para. 0401), which controls the playback of the broadcast information with auxiliary information (pg. 21, para. 0393). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Olivo by using a processor as taught by Shimoji in order to simplify the circuitry and provide additional services. Olivo teaches selective selection of the script, depending on the MCS evaluation switch (col. 14, ll. 30-53, col. 16, ll. 1-27). Olivo is silent on determining if the script is executed with a predetermined period of time. Shimoji teaches a script's time information table for a time period of script execution (pg. 11, para. 0234, 0240) and in addition teaches that if no user input is received then terminating the user input section (pg. 24, para. 0436), which cancels the script (when data is not entered within a

predetermined period of time as measured from a time when execution of said program or said script is started) and continuing playback of the broadcast material (pg. 24, para. 0436). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Olivo by displaying the script for a predetermined period of time as taught by Shimoji in order to provide the user with the option to select a prompt to acquire more information.

Regarding claims 22 and 24, Olivo teaches selective selection of the script, depending on the MCS evaluation switch (col. 14, ll. 30-53, col. 16, ll. 1-27). Accordingly, Olivo teaches playing the original content, which equates to canceling the execution of the program or script, wherein the recorded program continues to play from the recorded medium, which reads on playing back from a point succeeding said predetermined start time (col. 14, ll. 30-53, col. 16, ll. 1-27).

Regarding claims 23 and 25, Olivo teaches substituting scenes in a video sequence with more acceptable content (col. 7, ll. 48-54), one would readily recognize that the system of Olivo switching back to the broadcast information signal at the completion of the substituted signal (col. 14, ll. 30-53), which reads on a resuming from a point succeeding the start timing after execution of the program or script.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,172,111 to Olivo, Jr. (hereafter Olivo) and U.S. Patent Application Publication 2004/0088739 to Shimoji et al. (hereafter Shimoji) in view of U.S. Patent 5,701,383 to Russo et al.

Regarding claim 7, Olivo is silent on concurrently storing the broadcast information and playing back video and audio stored in the storage unit. Russo teaches concurrent reading and writing of information onto a medium (Abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Olivo by concurrent reading and writing of information onto a medium in order to implement the system with one device thereby reducing the duplication of the storage mediums

6. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,774,666 to Portuesi in view of U.S. Patent Application Publication 2004/0088739 to Shimoji et al. (hereafter Shimoji).

Regarding claim 26, Portuesi teaches a data storage device (6) with embedded URLs (8) as shown in figure 1, wherein the URLs of Portuesi reads on auxiliary information including a plurality of information pieces. Further, Portuesi teaches displaying URLs associated with the image track of a program using a link and caption as shown in fig 3 (col. 5-6, ll. 59-19), wherein the URLs is when executed generates the display screen interlocked with the playback. Portuesi discloses additional data as shown in tables 1 and 2, which teaches a predetermined period of time for specifying when the URL should be displayed (see table 2, duration field). Portuesi teaches the URL associated with a track ID (see table 1, track ID), accordingly, Portuesi teaches a link between auxiliary information and a program, but is silent on an index to link the auxiliary information and the program. Shimoji teaches the use of index to link

information, such as shown in figure 7, label 5303 (pg. 10, para. 0223, 0228). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Portuesi by using an index to link information as taught by Shimoji in order to provide plural programs such as in a multiple program transport stream (MPTS) and associated the appropriate auxiliary information efficiently. Portuesi does not explicitly disclose the events, which occur when a program or script is not completed within a period of time and canceling the script not permitting playback of the data of the script and the broadcast continues. Further, Portuesi shows URLs that should be displayed, but does not teach an executable program or script. Shimoji teaches handlers as scripts, which are programs or instruction words that are executed by the receiving apparatus (pg. 10, para. 0228). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Portuesi by implementing an executable program or script as taught by Shimoji in order to display the additional embedded information thereby enabling the user to gather access to education and entertainment options and providing interactive information to the user. Shimoji teaches a scripts time information table for a time period of script execution (pg. 11, para. 0234, 0240) and in addition teaches that if the no user input I received then terminating the user input section (pg. 24, para. 0436), which cancels the script (when data is not entered within a predetermined period of time as measured from a time when execution of said program or said script is started) and continuing playback of the broadcast material (pg. 24, para. 0436). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Olivo by

displaying the script for a predetermined period of time as measured from a time when execution of said program or said script is started as taught by Shimoji in order to provide the user with the option to select a prompt to acquire more information.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Y. Koenig whose telephone number is (571) 272-7296. The examiner can normally be reached on M-Th (7:30 - 6:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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